

REMARKS/ARGUMENTS

Claims 21-35 and 37-44 are pending in this case. Claims 21, 35, and 40 are amended. New claims 45-57 have been added. No claims have been cancelled. Further consideration is requested in view of the amended and new claims, and in view of the remarks below.

The Declaration is considered defective because the full names of each inventor has not been set forth. A copy of the Filing Receipt from serial no. 09/546,174 from which priority is claimed is enclosed. Each inventor's given name and family name is listed thus complying with 37 CFR 1.67(a). In addition, a copy of the letter from Jianq Chyun Intellectual Property Office listing W.B. Shieh and J.Y. Wu's full names is submitted herewith.

Claims 21-35 and 37-44 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending application no. 10/902,315. The Office Action indicated that timely filing of a terminal disclaimer could be used to overcome this rejection. In response, a terminal disclaimer is provided that complies with 37 CFR 1.321(c) to address this rejection.

Claims 21-35 and 37-44 stand rejected under 35 USC 102(a) as being anticipated by JP 8-288285. The rejection of claims 21-35 and 37-44 under 35 USC 102(a) is respectfully traversed.

The particular ordering of the layers is found in paragraph [0045] of the English translation to JP 8-288285:

[0045] The above embodiments did not use the antireflection coating in the patterning of the protection insulating film 4; however, the photolithography may be applied after providing a conventionally known antireflection coating such as TiN film. (underlining added)

Thus, JP 8-288285 teaches that a layer of TiN is added after forming the cap layer, if desired.

Claims 21, 35, and 40 have been amended to more properly claim the ordering of the claimed layers in a manner that distinguishes over JP 8-288285. Support for the ordering of the wiring, conductive protective, cap, and mask/photoresist layers in claims 21, 35, and 40 is found throughout the specification and drawings, and particularly in FIG. 1. Further support for the amendment to claim 40 is found throughout the specification and drawings, and particularly in FIGS. 3-8. No new matter is included in claims 21, 35, and 40. Note the order of the protective and cap layers 26 and 28 in FIG. 1 of the present application, which is reversed from that taught in JP 8-288285. Claims 21, 35, and 40 are each deemed to be allowable over JP 8-288285 as containing at least one limitation not taught in the cited reference. For this reason claims 21, 35, and 40 are deemed to be allowable under 35 USC 102(a).

The remaining pending claims are deemed to be allowable under 35 USC 102(a) as being dependent upon claim 21, 35, or 40 for the reasons given above.

New claims 45-57 are also deemed to be allowable under 35 USC 102(a) as being dependent upon claim 21, 35, or 40 for the reasons given above. No new matter is included in claims 45-57. Support for claim 45 is found, *inter alia*, in the specification at page 10, lines 22-23. Support for claims 46, 50, and 54 is found, *inter alia*, in the specification at page 10, lines 7-10. Support for claims 47, 51, and 55 is found, *inter alia*, in the specification at page 10, lines 14-15. Support for claims 48, 52, and 56 is found, *inter alia*, in the specification at page 10, lines 4-7. Support for claims 49, 53, and 57 is found, *inter alia*, in the specification at page 11, lines 25-29.

In view of all of the above, all pending claims 21-35 and 37-57 are now believed to be allowable and the case in condition for allowance which action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is requested to contact Applicants' attorney at the telephone number listed below.

Serial No. 09/991,196
Reply to Office Action of March 17, 2005

A check is provided with this Amendment to cover the fees for the Terminal Disclaimer, 12 additional dependent claims under 37 C.F.R. § 1.16(c), and a 2-month extension of time. Any fee deficiency associated with this submittal may be charged to Deposit Account No. 50-1123.

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Respectfully submitted,



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